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INCASE DESIGNS CORP.
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9 **UNITED STATES DISTRICT COURT**
10 **DISTRICT OF NEVADA**

11 INCASE DESIGNS CORP., a California
Corporation

12 Plaintiff,

13 v.
14

15 ROBERT GAO, an individual, and INCASE
LUGGAGE & BAGS CO. LTD., a Hong
Kong registered company,

16 Defendants.
17

CASE NO.: 2:10-cv-00019-RCJ-RJJ

ORDER GRANTING
**PLAINTIFF'S MOTION FOR DEFAULT
JUDGMENT AND AN AWARD OF
ATTORNEYS' FEES**

18 Plaintiff, Incase Designs Corp., having filed an application for entry of default judgment
19 against Defendants Robert Gao and Incase Luggage & Bags Co. Ltd. pursuant to Rule 55 of the
20 Federal Rules of Civil Procedure, the Clerk of Court having entered Default against Defendants on
21 February 2, 2010, and, this Court having now given due consideration to Plaintiff's application for
22 such judgment as well as all papers, pleadings, and exhibits offered in support thereof by Plaintiff,
23 the Court being further fully advised in the matter, it is therefore,

24 ORDERED, ADJUDGED and DECREED that judgment be entered in favor of Plaintiff
25 Incase Designs Corp. and against Defendants Robert Gao and Incase Luggage & Bags Co. Ltd. on
26 all counts of Plaintiff's Complaint, and, it is further ordered and adjudged that said judgment shall
27 include the following specific findings of fact and awarding of specific relief:
28

1 Plaintiff is the owner of certain INCASE Marks, which include, among others, INCASE
2 (word mark) for all-purpose carrying bags (Reg. No. 3,644,811), INCASE (word mark) for
3 carrying cases and bags designed for storage and transportation of musical instruments (Reg. No.
4 2,908,777), INCASE (word mark) for carrying cases specifically designed for storage and
5 transportation, namely carrying cases and bags for cellular phones, portable phones, palmtop
6 computers, handheld computers, laptop computers, portable audio players, portable game players,
7 cameras, compact discs and personal organizers (Reg. No. 2,643,012), INCASE (design) for
8 personal electronics accessories, namely, carrying cases specifically designed for cellular phones,
9 palmtop computers, laptop computers, portable audio players, portable game players, and cameras
10 (Reg. No 2,206,955), INCASE (design) for carrying cases and bags designed for storage and
11 transportation of musical instruments (Reg. No. 2,908,776), INCASE (leaf logo) for retail store
12 services featuring carrying cases and bags designed for storage and transportation of musical
13 instruments, portable computers, mp3 players, wireless telephones, digital cameras, personal
14 digital assistants and consumer electronics (Reg. No. 3,054,586), INCASE (leaf logo) for (1)
15 carrying cases and bags designed for storage and transportation of consumer electronics, namely,
16 portable computers, MP3 players, wireless telephones, digital cameras and personal digital
17 assistants; and (2) carrying cases and bags designed for storage and transportation of musical
18 instruments (Reg. No. 3,357,152), INCASE (leaf logo) for all-purpose carrying bags (Reg. No.
19 3,644,812), and LEAF DESIGN for (1) carrying cases and bags designed for storage and
20 transportation of consumer electronics, namely, portable computers, mobile telephones, digital
21 cameras, personal digital assistants and portable and handheld digital electronic devices for
22 recording, organizing, transmitting, manipulating, and reviewing text, data, audio, image, and
23 video files; (2) Carrying cases and bags designed for storage and transportation of musical
24 instruments and (3) All-purpose carrying bags (Reg. No. 3,644,810) (collectively the "INCASE
25 Marks");

26 Plaintiff has the exclusive right use the INCASE Marks in connection with the goods
27 described above;
28

1 Plaintiff's INCASE Marks are famous within the meaning of the Federal Trademark
2 Dilution Act;

3 Defendants' use of the INCASE Marks in connection with the advertisement and sale of
4 carrying cases, bags, and other general merchandise that is similar to or the same as the products
5 offered by Plaintiff violates the Lanham Act and is likely to cause confusion as to the source and
6 origin of Defendants' products;

7 Defendants' use of the INCASE Marks in connection with the advertisement and sale of
8 carrying cases, bags, and other general merchandise that is similar to or the same as the products
9 offered by Plaintiff violates Nevada's Deceptive Trade Practices Act;

10 Should Defendants' use of the INCASE Marks continue, Plaintiff will continue to suffer
11 irreparable injury to the goodwill and reputation it has established in the INCASE Marks for
12 which an award of damages would be inadequate;

13 Defendants have acted willfully and wantonly in their infringement of the INCASE Marks;

14 Defendants are liable for their infringement, unfair competition, and dilution of the
15 INCASE Marks, as well as for their deceptive trade practices;

16 THEREFORE, IT IS HEREBY ORDERED that Defendants Robert Gao and Incase
17 Luggage & Bags Co. Ltd., their respective agents, servants, employees, attorneys, successors and
18 assigns, and all persons, firms, and corporations acting in concert or participation with any
19 Defendants or on any Defendants' behalf, are hereby permanently restrained, enjoined, and
20 prohibited from engaging in any further infringement or dilution of Incase's trademarks in the
21 United States, as well as any further violations of Section 43(a) of the Lanham Act (False
22 Designation of Origin, False Representation in Commerce and Unfair Competition), including, but
23 not limited to:

- 24 (1) Manufacturing, advertising, distributing, exporting, importing, offering for
25 sale, selling or advertising any product bearing the INCASE Marks, including, but
26 not limited to, carrying cases and bags, as well as any goods, labels, tags, logos,
27 decals, emblems, signs, and other forms of markings, any packaging, wrappers,
28

containers and receptacles, and any catalogs, price lists, promotional materials and the like bearing a copy of colorable imitation of the INCASE Marks;

(2) using the INCASE Marks or confusingly similar variations thereof, alone or in combination with any other letters, words, letter strings, phrases or designs, in commerce or in connection with any business or for any purpose whatsoever;

(3) using any logo, trade name, or trademark which may be calculated to falsely represent or which has the effect of falsely representing that the sale of services or products of Defendants are sponsored by, authorized by, or in any way associated with Plaintiff;

(4) otherwise unfairly competing with Plaintiff; or

(5) otherwise engaging any deceptive trade practices.

ORDERED that Defendants pay Plaintiff nominal damages for corrective advertising of \$1,000; and it is further

ORDERED that Defendants pay Plaintiff's attorneys fees and costs in the amount of \$55,220.90; and it is further

ORDERED that the Court shall retain jurisdiction for purposes of enforcing this Judgment.

Dated this 11th day of June, 2010.



Gloria M. Navarro
United States District Judge